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# 10A/Bm  
3-27-03

Confirmation No.: 7157  
Applicant: MATHUR, Vijay K.  
Serial No.: 09/649,413  
Filed: August 26, 2000  
Title: MULTI-PHASE CALCIUM SILICATE  
HYDRATES, METHODS FOR THEIR  
PREPARATION, AND IMPROVED PAPER  
AND PIGMENT PRODUCTS PRODUCED  
THEREWITH  
)  
)  
) Art Unit:  
) 1731  
)  
) Examiner  
) P. Chin  
)  
)

Commissioner for Patents  
The United States Patent and Trademark Office  
Washington, D.C. 20231

AMENDMENT AND RESPONSE UNDER 37 C.F.R. SECTION 1.111

Sir:

In response to the First Office Action on the merits in this application, mailed November 25, 2002, kindly enter amendments as follows:

03/27/2003 BHMURPHY 00000002 071513 09649413/s:  
01 FC:2253 465.00 CH  
02 FC:2202 99.00 CH  
03 FC:2201 42.00 CH

enter in part (claims only)

**A. IN THE CLAIMS**

- (1) Kindly cancel prior pending claims 1-16 and 25-29, without prejudice.
- (2) Please enter new claims 30-60. New claims 30-55 correspond to previously pending claims 1-16. New claims 56-60 correspond to prior pending claims 25-29.
- (3) Status of claims 17-24: These claims have not been cancelled, but have been withdrawn from consideration via restriction requirement. The applicant intends to file a divisional patent application directed at the restricted invention, and thus will ask that claims 17-24 be cancelled without prejudice only upon allowance of the present application.

**B. IN THE SPECIFICATION**

1. Black and White Photographs as Drawings.

A petition for acceptance of black and white photographs as drawings accompanies this response. Upon grant of the petition, kindly amend page 25, line 5, by inserting the following: "The patent or application file contains at least one black and white photograph as a drawing. Copies of this patent or patent application publication with black and white drawing(s) will be provided by the U.S. Patent and

Trademark Office upon request and payment of the necessary fee."

2. Correction of Headers in Tables.

Due to word processing formatting problems, certain tables in the application as filed contain inappropriately split spellings. To correct such problems, kindly enter the following substitute pages: 27, 28, 32, 34, 36, 37, 40, 54, 55, 57, 58, 60, 62, and 64. These substitute pages provide correction of the formatting problems in column headers only, and no new matter is introduced thereby.

3. On page 29, line 5, after "Xonotlite" remove the second period ".".

4. On page 29, line 9, change "of1" to -of 1--.

C. **IN THE DRAWINGS**

A petition to accept black and white photographs as drawings accompanies this response.

**RESPONSE**

This Amendment and Response is responsive to the First Office Action on the merits in this matter, mailed September 25, 2002. In view of the amendments and the remarks made

herein, the applicant respectfully requests reconsideration and further examination of his application.

In response to the various objections and rejections set forth in the Official Action, the specific remarks are set forth below.

**1. COLOR DRAWINGS**

First, the examiner has objected to color drawings and photographs presented for examination purposes. Since the applicant desires to use the photographs currently on file as acceptable drawings for FIGS. 2, 3, 5, and 6, a petition to accept black and white photographs as drawings is being separately provided. The remaining drawings are now submitted as black and white drawings. Thus, upon acceptance of the petition, this basis of objection should be overcome, and FIGS. 2, 3, 4, and 6 should be deemed acceptable.

**2. REJECTION UNDER 35 U.S.C. Section 112, first paragraph.**

Next, the examiner has rejected prior pending claims 1-16 and 25-29, as based on a disclosure which is not enabling. As understood, the examiner has evidently taken the position that the invention as taught by the specification considers identification of the XRD patterns

of the claimed composition as essential, and thus should be included in the claims.

In response it must be plainly stated that the specification is clearly sufficient to support the claims as presently presented, namely the newly presented independent claims 30, 53, and 56. Each of these claims incorporate the XRD patterns set forth in the specification with respect to the claimed calcium silicate mixture. Thus, it is respectfully requested that this basis of rejection be withdrawn.

**3. REJECTION UNDER 35 U.S.C. Section 112, second paragraph.**

Next, prior pending claim 8 was rejected under 35 U.S.C. Section 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Since that claim has now been cancelled, it is believed that this basis of rejection is now mute, and it is respectfully requested that this basis of rejection be withdrawn.

**4. REJECTION BASED ON 35 U.S.C. Section 103(a), based on**

**Weigl et al (WO 8402727, or**

**King et al (CA 656,411).**

Next the examiner has rejected prior pending claims 1-16 and 25-29 as being unpatenable over Weigl et al or King et al. In response the applicant has presented new independent claims 30, 53, and 56 which provide the XRD pattern of the calcium silicate filler composition utilized to specify and thus further limit the claims to the composition found useful for the claimed purposes. Further, in a Declaration by the inventor, provided herewith, the many distinctions between the instant invention and either the Weigl et al reference or the King et al reference are set forth in great detail. And, an English language translation of the Weigl et al reference was obtained and is provided in the accompanying Information Disclosure Statement. For the reasons set forth in detail in the declaration, it is clear that neither the Weigl et al nor the King et al references make the presently claimed invention obvious. Thus, it is respectfully requested that this basis of rejection be withdrawn.

#### **5. Objections**

Next, the examiner has requested that the applicant review the specification and claims for spelling errors. In response to this request, (a) the newly presented claims are believed to properly spell the referenced calcium silicate compositions, and (b) substitute pages have been provided to

correct various formatting problems which appeared as improperly divided words in column headers. Thus, it is respectfully requested that any objection based on this requirement be withdrawn.

**6. Information Disclosure Statement**

An information disclosure statement is being forwarded under separate cover. That document notes (1) art already of record in this application, (2) additional art which has surfaced in corresponding foreign patent applications, and (3) an extensive number of references on calcium silicates of which the applicant is aware.

**SUMMARY**

It is respectfully submitted that in view of the arguments made above, and amendments made herein, the applicant's invention is not made obvious by the prior art of record, as the invention is now claimed. Therefore, reconsideration and withdrawal of all objections based on 35 U.S.C. §112 and 35 U.S.C. §103 (a) are respectfully requested. Additionally, examination and further consideration of the amended claims that more particularly point out and describe the applicant's invention is hereby requested.

For the reasons discussed in detail above, it is believed that this application is now limited to claims which (1) comply with the requirements of 35 U.S.C. Section 112, and (2) are clearly patentable over references of record.

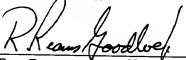
Favorable consideration of this application is therefore believed to be in order, and accordingly, is earnestly solicited.

Done at Kent, County of King, State of Washington, on the 23rd day of March, 2003.

Respectfully submitted,

**VIJAY K. MATHUR**

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